Options Paper
Responding to Problem Sexual Behaviour in Tasmania
Options Paper
Pathways to Change
Responding to Problem Sexual Behaviour in Tasmania

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1. Preamble and request for submissions

1.1. Purpose of this Options Paper
Responding to children displaying Problem Sexual Behaviour (PSB) and/or Sexually Abusive Behaviour (SAB) remains a significant challenge within Tasmania. Recent international research indicates that 40 to 90 per cent of sexual offending against children is committed by other children and young people,\(^1\) a figure that strongly contradicts the widely held belief that most sexual abuse against children is committed by adults. Child sexual abuse committed against another child is no less damaging or traumatic than abuse committed by an adult,\(^2\) but as O’Brien indicates, these behaviours,

...confound understandings of ‘victim’ and ‘offender’ as mutually exclusive categories. A full understanding of the intergenerational cycle of sexual abuse means acknowledging that children and young people with sexualised behaviours are very often children who have experienced harm of some kind, and who then go on to cause harm themselves.\(^3\)

In addition to the significant impacts PSB and SAB present both for the children displaying the behaviour and those targeted by it, the issue also presents a serious public health concern. Evidence indicates a strong causal link between children who display PSB or SAB and the progression to adult sex offending. Up to 30 percent of children experience childhood sexual abuse (CSA).\(^4\) In a sample of 2,759 CSA victims who were abused between 1964 and 1995, Ogloff et al found CSA victims were almost five times more likely than the general population to be charged with any offence than their non-abused counterparts, with strongest associations found for sexual and violent offences. CSA victims were also more likely to have been victims of crime, particularly crimes of a sexual or violent nature.\(^5\)

Breaking this cycle of problem sexual behaviour and abuse requires a comprehensive, targeted tertiary response, as well as broader secondary and primary prevention interventions.

The development of a Tasmanian response requires consideration of a number of key issues. The purpose of this paper is therefore to:

- Outline the key issues arising in the consideration of a Tasmanian response to children and adolescents displaying Problem Sexual Behaviour and Sexually Abusive Behaviour;

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\(^5\) Ibid.
• Gather responses and comments from Tasmanian stakeholders regarding the approach required to address this critical issue;
• Contribute to the Tasmanian Government’s ability to implement the National Plan to Reduce Violence against Women and their Children 2010-2022 and the State’s own framework, Taking Action: Tasmania’s Primary Prevention Strategy to Reduce Violence Against Women and Children 2012-2022;
• Contribute to the Tasmanian Government’s ability to implement the National Framework for Protecting Australia’s Children 2009–2020; and
• Support the Tasmanian Government in defining the context and focus of a program for young people displaying Sexually Abusive Behaviour, as per the Government’s Plan for Children, Young People and Families.

1.2. The consultation process
This Options Paper considers five key areas relevant to the development of a Tasmanian response to PSB/SAB. Particular questions for consideration and response are posed at the end of each section, however, responses to any reflections or concerns that this paper may raise are welcomed. All responses can be recorded in the template provided (refer Appendix 4.2 – stakeholder feedback template) and submitted:

By post:       Policy Officer
                 Sexual Assault Support Service (SASS)
                 PO Box 217
                 North Hobart Tasmania 7002

By email:      admin@sass.org.au

Submissions must be emailed or mailed to SASS by 30th of January 2015.

This is a public consultation process and all submissions may be utilised as part of the final report. This report will be made publicly available. Where submissions are received from individuals all personal details will be removed.

Any organisation or individual who wishes for their submission to be considered confidentially must clearly state this within the appropriate section on the stakeholder feedback template.

This Options Paper is available online at: http://www.sass.org.au/

1.3 Outcomes of the consultation process
At the conclusion of the consultation process, SASS will compile the consultation findings into a summary Policy Paper – which will be made available via the SASS website and distributed electronically to all submission contributors. The Policy Paper will outline a proposed approach for future state policy and practice in addressing the issue of PSB/SAB, including a preferred model. The paper will be presented to the Tasmanian Government.
2. Background

2.1 Introduction to the Pathways to Change Project

In 2012, the former Australian Government Department of Families, Housing, Community Services and Indigenous Affairs (FAHCSIA) funded the Pathways to Change Project, through the Child Aware Grants Program.

The Pathways to Change Project was designed and auspiced by the Sexual Assault Support Service (SASS). SASS is a community-based support and counselling service for female and male victims of sexual assault in the Southern region of Tasmania. It provides a range of services to children, young people and adults including sexual assault crisis intervention, counselling and community education. SASS also provides counselling and support services in relation to PSB/SAB to children who are 12 years and under and to their families, carers or service providers (e.g. schools).

The objectives of the Pathways to Change Project were to:

1) Identify key service deliverers supporting children with PSB and SAB; and
2) Develop a consistent practice response, built on best practice principles and involving effective intervention and collaborative case management, as part of a Tasmanian response to the issue of PSB and SAB in children and young people.

The first objective was fulfilled through the identification of a range of relevant service deliverers and stakeholders across Tasmania. A number of these services were actively involved in the Project through the Project Steering Committee or through the Practitioners Forum.

In regards to Objective 2, the Project team identified the work undertaken by the Victorian-based South East Centre Against Sexual Assault (SECASA) as representing best practice. In particular, the team identified the CEASE Standards of Practice for Problem Sexual Behaviours and Sexual Abusive Behaviour Treatment Programs which outline the requirements for services to ensure equity of access and quality of care. The CEASE Standards of Practice have been adopted by the Victorian Government and auspiced by the Australian and New Zealand Association for the Treatment of Sexual Abuse (ANZATSA). SASS has since adapted them for the Tasmanian context in consultation with the professional practitioner’s network identified through the Project. The adapted Standards have been adopted within SASS and are offered to Government and other agencies and services for their consideration as possible state-wide standards (see Appendix 3.3).

2.2 Context of Problem Sexual Behaviour and Sexually Abusive Behaviour within Australia

2.2.1 Terminology and definitions

SASS defines Problem Sexual Behaviour as behaviour in children,
of a sexual nature irrespective of age that is both outside that behaviour accepted as “normal” for their age and level of development and occurs to the detriment of the child’s or young person’s engagement in activities of normal functioning. This may include behaviours such as excessive self stimulation or excessive preoccupation with pornography that isolates them from normal social and/or learning opportunities and does not include the sexual abuse of others.\(^6\)

This term can be used in reference to children and young people up to and including the age of 17.

By contrast Sexually Abusive Behaviour describes a sub-set of behaviours displayed by children and young people against others, which include,

...the absence of consent; involve[ing] the use of threat of force or force; coercion, and [may include] a disparity of age, level of development or size.\(^7\)

Note that the issue of appropriate terminology is disputed, and will be discussed in further detail under Section 3.2.

### 2.2.2 Characteristics of children displaying Problem Sexual Behaviour and Sexually Abusive Behaviour

Research is limited on the causational pathways to children displaying PSB or SAB. A 2010 Australian Crime Commission (ACC) Report states that children displaying PSB or SAB are likely to have experienced or to be experiencing a combination of:

- childhood trauma;
- compromised educational outcomes;
- adverse socio-economic conditions;
- homelessness;
- intellectual impairment or developmental delays;
- social isolation; and
- exposure to drug or alcohol misuse.\(^8\)

The Australian Childhood Foundation confirms this, highlighting that key familial characteristics associated with children displaying PSB include:

- lower socioeconomic status;
- sexually and/or physically abusive caregivers;
- parents’/caregivers’ own histories of abuse;
- criminality;
- clinical disorders such as depression; and
- drug and alcohol misuse.\(^9\)

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\(^7\) Ibid.


2.2.3 Prevalence of Problem Sexual Behaviour and Sexually Abusive Behaviour

An accurate estimate of the incidence of children with PSB and SAB within Australia is difficult to establish. Recent international evidence indicates that between 40 to 90 per cent of sexual offending against children is committed by other children and young people.\(^{10}\) Even the lesser number “belie the generally held assumption that perpetrators of child sexual assault are adult males.”\(^{11}\)

Whilst the general public remains largely unaware of the issue, it is not unfamiliar to practitioners. The NSW Department of Health identifies that “ongoing feedback from frontline workers and in their request for policy direction and guidance in providing a response”\(^{12}\) reveals compelling evidence of the prevalence of children with PSB or SAB. SASS data affirms this, indicating that between April 2011 and April 2012 88 SASS clients between the ages of 3 and 16 were identified who displayed Problem Sexual Behaviour (PSB) and/or Sexually Abusive Behaviour (SAB) as their presenting issue.\(^{13}\)

It is likely that this statistic presents only an indicator of a larger problem. Numerous challenges exist in gaining an accurate assessment of the scope of the issue in Australia, and consequentially operationalising a response. These include:

- Diverse community attitudes towards PSB/SAB – including denial of or downplaying the behaviour/issue,\(^{14}\) coupled with a tendency towards under-reporting by parents, caregivers, teachers and others when abnormal sexualised behaviour is observed;
- A lack of rigorous, evidence-based research and the collection of empirical data on PSB/SAB. Additionally, what research is available predominantly comes from the United States, which although provides useful comparative evidence, presents limitations for our understanding of the problem in Australia; and
- A lack of consensus on clear definitions of PSB and SAB (as discussed previously), as well as on what constitutes developmentally appropriate and inappropriate sexual behaviour.\(^{15}\)

Aside from Victoria, little attention has been paid to the issue within public policy, resulting in inconsistent and fragmented responses by statutory bodies, police and child welfare organisations. The Australian Childhood Foundation highlights that the service system “often fails to acknowledge the significance of the problem and frequently does not record reliable data.”\(^{16}\)

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\(^{10}\) O’Brien (2010), p. 5.

\(^{11}\) O’Brien (2010), p. 5.


\(^{14}\) Australian Childhood Foundation (2005), p. 7.

\(^{15}\) Ibid.

\(^{16}\) Ibid.
2.2.4 Risk of future offending

Numerous studies of sexual abuse indicate a strong causal link between childhood, adolescent and adult sexual offending. Gelb indicates two particular studies that support this conclusion; the first being a US survey of adult sex offenders, in which 58 per cent reported that their offending behaviour began when they were adolescents, and the second a New Zealand study that interviewed female survivors of child sexual abuse and found that 25 per cent had been abused by adolescents. Corroborating this, Abel and Harlow’s 2001 research with 4007 self-confessed child sex offenders revealed that “20% said they began abusing boys and 12% began abusing girls before the age of ten. Forty-three per cent began abusing boys when they were aged 10–15 years and 32% began abusing girls. Seventy per cent of adult male offenders were abusing boys by the time they were aged 19 and 54% were abusing girls.”

Furthermore, research from New Zealand indicates that “adult sex offenders against children who began offending in their youth are almost twice as likely to reoffend sexually than those who began offending in their adulthood.”

2.2.5 Treatment options and approaches

O’Brien, a leading Australian expert on PSB and SAB, discusses the need to develop a consistent response to children displaying PSB/SAB across a range of settings, including therapeutic interventions, child protection services, schools and community services. Both scholars and practitioners strongly emphasise that earlier interventions increase the chance of positive rehabilitation outcomes for the child. This decreases the likelihood that the child may follow a pathway onto adult sex offending and family violence, and thus also limits the risk that other children or adults become the victims of sexual abuse or other forms of interpersonal violence.

Scholars and clinicians also agree that therapeutic interventions for children displaying PSB or SAB is “a separate and specialised field of service provision necessitating specialist training and supervision for clinicians.” There are significant challenges however inherent within Australia’s current provision of such treatment;

- Therapeutic programs to support children and their families are exceedingly scarce, where they do exist, high demand and insufficient resourcing often hampers their effectiveness and scope;
- Complex program eligibility requirements result in the exclusion of large numbers of children and adolescents requiring intervention. These requirements generally relate to a child’s age, or to whether they have a court-order for treatment. Such provisions

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18 Gelb (2007), pp. 16-17.
often exclude children who have not had contact with the criminal justice system, or who are not within a specified age range; and

- The complexity of the web of sentencing and rehabilitative treatments available or possibly available. Emphasising this, O’Brien draws on NSW Department of Juvenile Justice data showing that sentencing generally fails to take into account an offender’s rehabilitative needs, instead determining penalties according to the criminal justice system. This is believed to correlate with the high recidivism rates of youth sex offenders.23

2.2.6 Gaps in current Tasmanian system
Policy, legislation and service system responses to PSB and SAB differ significantly across each Australian jurisdiction. Victoria has the most comprehensive state system, with supporting legislation, standards of practice for services and practitioners, and targeted funding to enable service provision.

In contrast, Tasmania (amongst other states and territories) has no agreed framework and scarce funding for intervention with children and young people displaying PSB or SAB. What programs do exist are only available for children up to 12 years of age, are offered on a voluntary basis only, and are subject to the availability of resources often diverted from victim services.

The state also has no system for collaborative case management focussing on aligning intervention practice and response consistency across the justice, child protection, and therapeutic/rehabilitation systems. Whilst SASS provides support to children up to 12 years of age displaying PSB or SAB (if resources are available), there is no capacity to provide services to young people aged 12 and over. Tasmania also has no system of juvenile treatment programs for young people aged over 10 and charged with or convicted of a criminal sexual offence.

These policy and service system gaps leave a significant number of children and adolescents, and their families, without the support evidence indicates is critical in effectively addressing inappropriate or abusive sexual behaviours.

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3 Key issues

3.1 Relevant legislative frameworks and policies

3.1.1 National and State Frameworks

Protecting Children is Everyone’s Business: National Framework for Protecting Australia’s Children 2009-2020

In 2009 the Council of Australian Governments (COAG) released the National Framework for Protecting Australia’s Children 2009-2020 (National Framework). The overarching goal of the National Framework is that “Australia’s children and young people are safe and well”.24 The Tasmanian Government endorsed the Framework, and as such is taken to be committed to implementing the actions set out within it.25

The Framework outlines six supporting outcomes designed to support the safety and wellbeing of young people in Australia. Outcome Six is particularly relevant to this paper, outlining that ‘Child sexual abuse and exploitation is prevented and survivors receive adequate support’. The discussion on this outcome notes that “There is also increased reporting of children with young people with sexually abusive behaviours and of sibling sexual abuse.”26 Strategy 6.2 relates to enhancing prevention strategies for child sexual abuse, setting out the following actions within the first 3-year action plan:

Investigate best practice therapeutic programs for children displaying sexually abusive behaviours, such as:

- collaboration between government agencies and therapeutic treatment service providers to build a state-wide therapeutic treatment service system to implement the relevant provisions of the Children, Youth and Families Act 2005 (VIC)
- New Street program for adolescents aged 10-17 years who display sexually abusive behaviours (NSW).27

The Framework is operationalised through three-year Action Plans. The second three-year Action Plan (2012-2015) reports on progress in this area, summarising the following outputs;

- “The completion of the first national study on Australia’s response to sexualised or sexually abusive behaviours in children and young people.
- The development and publication of a learning resource to support family-based and residential carers and staff to respond to concerning sexual behaviours.”28

26 Ibid, p. 31.
27 Ibid, 32.
The second Action Plan does not include any indicators for future work on Outcome 6.

A series of Annual Reports delivered to COAG indicate national and state progress against each Outcome, Strategy and Action. Tasmania’s progress against Strategy 6.2 ‘Enhance prevention strategies for child sexual abuse’ is reported in the 2009-2010 Annual Report as the following.

Disability, Child, Youth and Family Services has funded the Australian Childhood Foundation to deliver a therapeutic support service for children in care. This Child Trauma Service is now established on a state-wide basis and responds to problem sexualised behaviour exhibited by children in care.\(^{29}\)

The 2010-11 Annual Report details Tasmania’s response as,

Tasmania’s Sexual Assault Support Service (SASS) provides continuous case management with teachers which reaches children who have been identified as displaying sexualised behaviours.\(^{30}\)

The Tasmanian Government does not report any output or outcome against Action 6.2B: ‘Investigate best practice therapeutic programs for children displaying sexually abusive behaviours’, and in the 2011-2012 Annual Report no progress is reported in the area of children displaying sexually abusive behaviour.

National Plan to Reduce Violence against Women and their Children 2010-2022

In 2010 the Federal Government produced the National Plan to Reduce Violence against Women and their Children 2010-2022 (National Plan). The National Plan contains Four Action Plans to be implemented over 12 years. As a signatory to the National Plan, the Tasmanian state Government has committed to the development of policy, legislation and service delivery systems with the aim to both reduce violence against, and increase victim support for women and children. Tasmania has outlined how it will implement, monitor and measure key areas of the National Plan through the Tasmanian Implementation Plan: Building a Strong Foundation 2010-2013.

In response to Outcome 1 of the National Plan, the Tasmanian Government also developed the Primary Prevention Strategy to Reduce Family Violence and Sexual Assault in Tasmania (2012 – 2015) to guide state Government policy on family violence and sexual assault. The Strategy focuses on a public health approach to reducing family violence and sexual assault, based on four core objectives:

- Foster an intolerance of violence in Tasmania through a range of strategies;
- Use evidence based best practice programs to build people’s capacity to develop respectful relationships;


• Through the Select Council on Women’s Issues develop a national approach to promote the leadership of Aboriginal and Torres Strait Islander women; and
• Strengthen collaboration between government and non-government services to ensure services meet the needs of clients.\textsuperscript{31}

The Strategy identifies that working with perpetrators of family violence and sexual assault to stop their violence is a key secondary prevention strategy.\textsuperscript{32} In particular the Strategy notes rising concerns about the high numbers of children and adolescents in Tasmania exhibiting Problem Sexual Behaviour and Sexually Abusive Behaviour. It outlines that best practice models of secondary interventions for child and adolescent perpetrators of sexual violence will be researched as part of the \textit{Tasmanian Implementation Plan: Second Action Plan 2013-16 (yet to be developed)}.

The National Plan identifies a key primary prevention strategy through National Outcome 6, which promotes legal responses and rehabilitation programs for perpetrators, and specifically Strategy 6.3, which calls for early intervention with children and young people who are at risk of becoming offenders in adulthood.

Outcome 6 requires the development of state policy, legislation and service systems pertaining to children and young people displaying PSB and/or SAB, as both possible victims of sexual assault, domestic violence and other forms of child abuse, and as potential adult perpetrators of violence. However, despite increasing recognition of PSB and SAB, the Tasmanian policy, legislation and service delivery system pertaining to sexual assault remains less comprehensive than its family violence counterpart.

The Pathways to Change Project and the production of the \textit{Tasmanian Standards of Practice for Problem Sexual Behaviour and Sexually Abusive Behaviour: Intervention and Treatment Programs} and complementary practitioner resources represents a Tasmanian response to the issue of PSB and SAB. This response correlates with the aims of National Outcome 6. SASS hopes to soon see the development of a comprehensive state response, built on SASS’s existing work, as part of Tasmania’s commitment to achieving the outcomes of the National Plan.

\textit{Sharing Responsibility for Our Children, Young People and their Families}

In 2010 the Tasmanian Parliament convened a Select Committee on Child Protection. One of the final recommendations of the Committee was that the Tasmanian Government give consideration to SASS’s recommendations to the Committee, which included that “That the problem and prevalence of problem sexual behaviour in children be acknowledged and responded to in a systematic manner.”\textsuperscript{33} The Tasmanian Government responded to the Committee findings in their report, \textit{Tasmanian Government’s Response, Sharing Responsibility for Our Children, Young People and their Families}, in which they noted the recommendation regarding SASS’s submission. The Tasmanian state response is then

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\textsuperscript{32} Ibid, p. 22

operationalised in the *Sharing Responsibility for Our Children, Young People and their Families: Implementation Framework 2012-2015*,\(^{34}\) which does not mention PSB/SAB.

**Our Children, Our Young People, Our Future**
The Tasmanian Government launched the state Agenda for Young People, *Our Children, Our Young People, Our Future* in 2011.\(^{35}\) This document also makes no mention of PSB or SAB.

**Recommendations**
1. The future goal of the development of a comprehensive service system response to PSB and SAB be recognised and supported by the Tasmanian Government as part of its commitment to developing secondary and tertiary prevention strategies for sexual assault.
2. The Tasmanian Government commits to the implementation of Strategy 6.2 of the *National Framework for Protecting Australia’s Children* which explicitly recognises the need to address PSB and SAB and outlines a strategic framework for how the state will tackle the issue through policies, research and funded programs.
3. The Tasmanian Government commits to the implementation under *the National Plan to Reduce Violence Against Women and their Children* of the provisions of the *Primary Prevention Strategy to Reduce Family Violence and Sexual Assault in Tasmania (2012 – 2015)* which explicitly recognises the need to address PSB and SAB, and outlines a strategic framework for how the state will tackle the issue through policies and funded programs.
4. Any future development of the Tasmanian child protection system considers the need to acknowledge and systematically respond to the issue of problem sexual behaviour and sexually abusive behaviour in children.

**Questions**

a) How should Tasmania address the issue of PSB/SAB within the second phase of the Tasmanian Implementation Plan of the *National Plan to Reduce Violence against Women and their Children*?

b) How should Tasmania address the issue of PSB/SAB within the response to the *National Framework for Protecting Australia’s Children 2009–2020*?

**3.1.2 Legislative and Policy Framework**
This section of the Options Paper will identify relevant aspects of and gaps within the legislative and policy framework (both state and international) relevant to a Tasmanian response to addressing PSB/SAB.

**Children, Young Persons and their Families Act 1997**

**Child Protection notifications**
A supportive child protection framework is a key enabling element of a responsive service system for the treatment of SAB in children and young people. Within the Victorian *Children, Youth and Families Act 2005* there are two grounds on which child protection intervention may be warranted where a report of sexually abusive behaviour is received:

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• The young person is in need of protection (s.162); and/or
• They are in need of therapeutic treatment due to their sexually abusive behaviour (s.248) (for a child aged 10-15 years of age).  

The equivalent Tasmanian legislation is the Children, Young Persons and their Families Act 1997, which enables a child protection intervention on the basis of a child being “at risk” (s.4) of abuse or neglect, including sexual abuse by others. It does not provide for interventions on the basis that a child needs treatment for sexually abusive behaviours, which may make them a risk to others. There is therefore no mandate for intervention in cases where a child displays SAB but is not deemed at risk of neglect or abuse. In such cases, legislation which requires intervention on the grounds of the risk such children pose to others, and their need for assistance in the form of treatment, provides a more effective response to the problem.

Recommendations
5. The Tasmanian Children, Young Persons and their Families Act 1997 be amended to state that children and young people up to 18 years of age displaying PSB/SAB require a child protection intervention, whether or not they are themselves at risk of neglect or abuse; and
6. That under the Act, a child protection intervention in these cases focus on both the safety management of other vulnerable children and the provision of rehabilitative treatment (including a mandated intervention) to the child that poses a risk to others.

Questions

c) Should the Tasmanian Children, Young Persons and their Families Act 1997 be amended in line with Victorian legislation, to enable interventions where children and young people are displaying SAB, but are not necessarily themselves at risk of neglect or abuse?
d) What age range should this pertain to?
e) Should this amendment focus both on the safety management of other vulnerable children and the provision of rehabilitative treatment to the child displaying the behaviour?

Therapeutic Treatment Orders
A large percentage of young people who exhibit SAB will not be prosecuted for their sexual offence. There are several reasons for this, including the low reporting rates for sexual assault and the fact that such cases rely heavily on specific types of evidence which may be difficult to obtain. Additionally, there is a cohort of young people who commit an offence but where a number of factors prevent a conviction, including that a) they are not above the age of criminal responsibility; b) they would be found not legally responsible for their actions due to the legal presumption of doli incapax; or c) it is too difficult to prove that they had the requisite mental intent necessary to secure a conviction. A comprehensive sexual assault prevention system therefore needs more than just young offender treatment programs.

36 Children, Youth and Families Act 2005 (Vic).
Victoria has addressed this problem through policy and legislative reform across the child protection and youth justice sectors. Provisions in the *Children Youth and Families Act 2005* enable the Department of Human Services (DHS) to receive reports for children aged 10 – 14 requiring therapeutic treatment, and where these are substantiated, refer the case to the Children’s Court. Under Section 248 the Court can then make a Therapeutic Treatment Order (TTO) which mandates the young person and their family to access non-voluntary therapeutic treatment at a specified counselling service (for example one of the Victorian Centres against Sexual Assault). A therapeutic placement order can also be issued where it is impossible for a young person to remain at home throughout the duration of treatment. This provides an alternative treatment pathway where a young person or their family does not voluntarily seek help, without the need to rely on a criminal prosecution.

Where the young person has criminal matters pending, child protection may be required to assess the suitability of a TTO on request by the Criminal Division of the Children’s Court. Additionally if the matter has come directly to the Criminal Division of the Children’s Court, it may be referred to DHS, where the Therapeutic Treatment Board (established under a provision within the CYFA) gives advice on the viability of an application for therapeutic treatment. If a TTO is deemed appropriate, and the court makes the Order, the sexual offence matter in the criminal division is adjourned for the duration of the TTO. As the TTO nears completion, the Criminal Division of the Children’s Court can dismiss the charges if it believes the young person has satisfactorily engaged with treatment.

The TTO provisions aim to enable early intervention for young people who exhibit SAB, and therefore to limit the potential for ongoing and more serious offences. TTO’s allow for 12 months of compulsory therapeutic counselling, but are only issued where children and their families do not voluntarily access treatment. A select number of counselling services have received increased state funding in order to execute the provision of therapeutic treatment to those subject to TTO’s.

Reported benefits of the TTO system include:

- Young people and their families are opting to access voluntary treatment more readily to avoid TTO’s;
- An increase in awareness by child protection and law enforcement professionals regarding children with SAB and which services are best able to respond;
- TTOs highlight the seriousness of the issue and efficacy of treatment;
- Trends of under reporting sexual assault, attritions of sexual assault reports generally and the fact that SAB in young people is rarely addressed comprehensively through criminal justice, means that many young people displaying SAB are never required to address and change their behaviour. The TTO system has captured three cohorts of young people who would previously have slipped through this gap;
  - Those who are reported to the police as a result of their behaviours, but not pursued via the courts;

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37 *Children, Young Persons and Families Act 2005* (Vic), s.352.
38 Ibid, s.354 (4).
Those who come to the attention of a statutory Child Protection agency due to their behaviours; and

Those who appear as defendants within criminal justice proceedings and where the Court determines that there is *prima facie* evidence that grounds exist for the application of a TTO.  

Victoria receives approximately 40 reports a year requesting a Therapeutic Treatment Order.

Some of the potential problems with a TTO system however include:

- Involuntary treatment may not produce the best therapeutic outcomes;
- Specialised treatment programs require specific ongoing governmental funding;
- The TTO system relies heavily on the availability of geographically accessible services (including in regional and remote settings) to deliver the mandated treatment. For example in Victoria sexual assault service providers operate extensively through a system of 15 Centres against Sexual Assault (CASAs) – a structure unique to the Victorian context. This service network provides a solid foundation from which to deliver SAB treatment programs, but still leaves some regions with inadequate service access. In Tasmania, sexual assault services are currently provided from three central locations (Hobart, Launceston and Burnie). The Tasmanian population is however widely spread across rural and regional areas, which presents challenges for equitable service access;
- TTOs are only available for those aged over 10 years. This assumes that children younger than 10 who are displaying SAB will voluntarily access treatment;
- The “pursuit of justice” for sexual offence victims, through the successful prosecution of an offender, is not an option in cases where a young person is diverted from the criminal justice system through a TTO and successfully completes treatment; and
- Even where treatment is mandatory, parents/carers may still not engage with treatment options. In such cases children displaying SAB may not receive appropriate treatment.

The role of a potential TTO system as part of a Tasmanian framework to address PSB/SAB is outlined within Appendix 4.3: Proposed referral and treatment pathway.

**Recommendation**

7. The Children’s and/or Youth Justice Divisions of the Magistrates Court be granted power to order a young person up to 17 years of age, and their family, to undergo therapeutic counselling for sexually abusive behaviours.

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Questions

f) Would a Therapeutic Treatment Order (TTO) system be an effective youth justice diversion and sexual assault prevention strategy for Tasmania?

g) What ages should the TTO system target?

h) Considering the challenge of parental/carer non-engagement, could a TTO system for children under 10 years be devised? Are there other options to support the capacity of these children and their families to access counselling?

Cumulative Harm

Cumulative harm refers to the effects of patterns of adverse circumstances and events in a child’s life, the daily impact of which can be profound and exponential, and “diminish a child’s sense of safety, stability and wellbeing.” Cumulative harm may be caused by an accumulation of a single recurring adverse circumstance or event (such as unrelenting low-level care); or by multiple circumstances or events (such as persistent verbal abuse and denigration, inconsistent or harsh discipline, and or exposure to family violence). It can be present in any type of protective concern but is unlikely to be the sole factor for reporting, and thus is often overlooked.

The concept of cumulative harm is of particular importance when considering children with PSB/SAB as clinical data reveals that such children are likely to have experienced a history of childhood neglect, abuse and adverse circumstances in their earlier years, and that sexualised behaviours are therefore often an ‘acting out’ response to trauma. Supporting this, an evaluation of the New Street Adolescent Service found that “the majority of young people at the service who had engaged in SABs had experienced harm themselves, including neglect and exposure to domestic violence.”

The Victorian Children, Youth and Families Act 2005 (CYFA) expressly considers cumulative harm, stating that the best interests of the child must always be paramount when making a decision mandating action with regard to a child. Included in the best interest principle, and outlined in section 10(3) (e) is “the effect of cumulative patterns of harm on a child’s safety and development”. Further, at section 162(2) the CYFA determines that “harm may be constituted by a single act, omission or circumstance or accumulate through a series of acts, omissions or circumstances”.

The grounds for statutory intervention are outlined in section 162(1) (c) to (f). Cumulative harm may be a factor in any one ground (such as failure to provide basic care) or a combination of different grounds (such as physical injury and emotional harm) where the prolonged and repeated experience of these circumstances or events have or are likely to cause the child significant harm. The need to identify and respond to cumulative harm has

the most impact on cases of “omission” (neglect) that may have previously been considered as low risk when considered episodically.

In line with the CYFA Victorian practitioners are required to assess each report as bringing new information that needs to be carefully integrated into the history of the child and weighted in a holistic assessment of the cumulative impact on the child, rather than an episodic focus on immediate harm.

Unlike the Victoria legislation, the Tasmanian Children, Young Persons and their Families Act 1997 (CYPFA) does not expressly consider the effects of cumulative patterns of harm on a child’s safety and development.

Recommendation:
8. The Children, Young Persons and their Families Act 1997 be amended to consider the effects of cumulative harm, rather than just episodic interventions.

Questions
i) How should the concept of cumulative harm be considered within the Tasmanian context?

j) Should the Children, Young Persons and their Families Act 1997 be amended to expressly consider and respond to the effect of cumulative patterns of harm on a child’s safety and development?

Youth Justice Act 1997

Crucial to the development of a comprehensive Tasmanian service system response to SAB is the development of tertiary justice diversion options for children (ten years and over) and young people up to 17 who are found guilty of a sexual offence.

The current diversionary option within Tasmania is a community conference, the procedure for which is set out within the Youth Justice Act (YJA) 1997. A referral can be made for a conference by the police (s.9 (1) (b) and s.13 (1)) or by the Magistrate (s.37 (1)). A community conference is a one-off session attended by the offender, a DHHS appointed facilitator, a youth justice worker and a nominated police representative. Where the conference is court-ordered, one of the offender’s parents/guardians must also be invited, as well as a person with a close association with the young person (such as a counsellor). Victims may also be involved. The conference involves a discussion of the crime, an admission by the offender, and agreement on a suitable sanction. This can include, amongst other things, the payment of compensation, community service, or an apology to the victim.

Whilst the community conference process can be a valuable diversionary, restorative justice approach in some contexts, SASS believes that it is not an appropriate process for young people displaying sexually abusive behaviours.
Firstly, the stated aim of community conferences is “restoration for those people affected by the young person’s offending behaviour”. The concept of restoration is not adequate to encompass the behavioural change process necessary for a young person to cease their sexually abusive behaviour.

Secondly, the original intent within the YJA was that the police would commission a conference in response to minor offending committed by “that 80% of adolescents who offend as part of a maturation process, rather than those young people who have committed serious, repeat offences and who are subject to a variety of social inhibitors that require more intensive intervention.” In her recent analysis of Tasmania’s community conference model, Douglas finds that “It is clear that those referred for diversion by police and courts are presenting with higher criminogenic risks and needs than previously envisaged, or considered in existing legislation.”

Young people displaying SAB present with diverse and complex histories and needs. A significant number are themselves the victims of intra-familial abuse and neglect, with four dominant SAB risk pathways identified as:
- “being a witness to, or being directly exposed to family violence
- chronic, long-term neglect (cumulative harm)
- inappropriately witnessing sexual activity
- being a victim of sexual abuse.”

Treatment approaches therefore need to consider the impact of intergenerational cycles of childhood abuse and neglect. Whilst further research is needed into optimum treatment approaches for the different ‘categories’ of young people who engage in SAB, the Australian Childhood Foundation suggests that it is “highly likely that different types of therapy might be needed for different groupings of children and family circumstances.” According to a recent review of effective practice in juvenile justice commissioned by the NSW Minister for Juvenile Justice,

> Effective juvenile justice programs focus on addressing the underlying factors behind the offending behaviour of juveniles... Effective responses to youth crime often include programs which deliver family, school or community-based therapies and services.

A community conference is not the appropriate process or setting within which to address the complex therapeutic needs of young offenders displaying SAB. Without addressing the underlying causes of a young person’s offending behaviour, and investing in a supported

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46 Ibid.
47 Ibid.
behavioural change process, the risk that they will reoffend remains high. Little evidence exists on the effectiveness of community conferencing for young sexual offenders, with a review of youth justice diversionary responses undertaken by the Attorney General’s Department stating that “the safest thing that can be concluded at the moment is that it has not been proven that conferencing produces lowered levels of recidivism.”51

An effective service response to SAB therefore requires legislative reform to enable the referral of children and young people (10 years and over) who have been found guilty of a sexual offence to relevant tertiary intervention programs. Central to this is provision for an initial assessment that can then determine, based on the young person’s family context and social, emotional and sexual development, the appropriate treatment option. Intervention program options should incorporate risk, need and responsivity principles.

Victoria provides an example of a flexible and responsive diversionary system. The Children, Youth and Families Act 2005 enables referral to a therapeutic treatment program for young people convicted of sexual offences or for whom a criminal charge is being pursued. The CYFA also,

...provides for the criminal division of the Children’s Court to stand down criminal matters when a child is subject to a Therapeutic Treatment Order and to dismiss charges where a child successfully completes a treatment program.52

Recommenda­tion
9. Amendments be made to the Youth Justice Act 1995 to:
   o Enable the Magistrate’s Court (Children’s Division) to refer children and young people (aged between 10-17 inclusive) convicted of a sexual offence to an individual assessment, and then based on this, to an appropriate therapeutic treatment program;
   o Enable the Court to stand down criminal matters when a child or young person (aged between 10-17 inclusive) is made subject to a Therapeutic Treatment Order (assuming that the Child, Youth and Families Act 1997 is amended to adopt this approach); and
   o To dismiss charges where a child or young person (aged 10-17 inclusive) successfully completes a treatment program.

The role of youth justice diversionary options as part of a Tasmanian framework to address PSB/SAB is outlined within Appendix 4.3: Proposed referral and treatment pathway.

Questions

k) What types of effective youth justice diversion processes would be appropriate within the Tasmanian context?

l) Should the Youth Justice Act 1995 be amended to enable the Magistrate’s Court (Children’s Division) to refer children and young people (aged between 10-17 inclusive) convicted of a sexual offence to an individual assessment, and then based on this, to an appropriate therapeutic treatment program?

m) Should criminal matters be stood down when a child or young person (aged between 10-17 inclusive) is made subject to a Therapeutic Treatment Order?

n) Should charges be dismissed where a child or young person (aged between 10-17 inclusive) successfully completes a treatment program?

Disability Services Act 2011

Clinical data indicates that children with an intellectual disability are at increased risk of displaying PSB or SAB.\(^{53}\) A specialised response is required for these children, which may include the provision of specific resources, education and/or monitoring.\(^{54}\)

There is no direct reference within the CEASE Standards to principles governing interventions with children or adolescents with intellectual disabilities. In the past, Victorian service responses to PSB and SAB have occasionally included specific programs for children and young people with an intellectual disability.\(^{55}\) The Good Way Model, developed and run by the New Zealand organisation WellStop, provides an example of a model that predominantly works with adolescents with intellectual and development disabilities who also display SAB.

It is highly likely that a proportion of children and young people with PSB and SAB in Tasmania will also have an intellectual disability. It is therefore prudent to consider how this will be addressed within the development of service models. Subsequently, the relevance of the Disability Services Act 2011 (potentially s.5 principles, and s.6 designated standards) will need to be taken into account.

Recommendation

10. The development of a Tasmanian service delivery model for children/young people with PSB or SAB must take into account the specific needs of children/young people with an intellectual disability, including the development of specialised programs, resources, education and monitoring, as well as appropriate practitioner training.

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\(^{55}\) For example, the Victorian South East Centre Against Sexual Assault (SECASA) began running the Sexual Assault and Intellectual Disability (SAID) program in 2005, although it is not clear if this program is still in operation.
**Question**

**o)** Should the *Disabilities Services Act* and the relevant policy/service delivery framework be reviewed to facilitate the capacity to work with a potential cohort of children/young people displaying PSB or SAB who also have intellectual disabilities?

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**International law and the Rights of the Child**

The Cease Standards state that PSB and SAB treatment programs will be guided by the *Victorian Charter of Human Rights and Responsibilities Act 2006*. There is no equivalent Charter within Tasmanian state legislation. However, it would be appropriate for Tasmanian programs to be guided by relevant provisions within the United Nations *Convention on the Rights of the Child*, to which Australia is a signatory. Articles 19 and 34 of the Convention stipulate the need for state responses to protect children from abuse (including sexual abuse), and therefore support the existence of state services for children and young people displaying PSB and SAB. Additionally, Article 3 outlines principles to be upheld in relation to children’s rights and the interventions of social welfare institutions within children’s lives.

**Recommendation**

11. The relevant Articles from the United Nations *Convention for the Rights of the Child* be included within the *Tasmanian Standards of Practice for Problem Sexual Behaviour and Sexually Abusive Behaviour: Intervention and Treatment Programs* (as outlined above).

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**Question**

**p)** Are there other relevant Articles from the United Nations *Convention on the Rights of the Child* that should guide the development of a state response to PSB/SAB?  

**q)** Are there other applicable international conventions or principles that should be referenced and incorporated?

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**Working with Aboriginal and Torres Strait Islander children and their families**

Cultural competence, sensitivity and respect are essential in any intervention with children and families. The Victorian Cease Standards state that programs working with Aboriginal and Torres Strait Islander clients and their families will be guided by the *Aboriginal Cultural Competence Framework*.

This Framework outlines the understandings, principles and service context that underpin Aboriginal cultural competence for the Victorian child and family services system. Whilst there is currently no Tasmanian equivalent, it would be prudent to identify and include a set of principles to guide practice with Aboriginal and Torres Strait Islander peoples within the Tasmanian context. It would also be judicious to consider the relevance of Section 9 of the Tasmanian *Children, Young Persons and their Families Act 1997*, which outlines principles for working with the Aboriginal community in relation to child protection interventions.

**Recommendations**

12. The draft Tasmanian Standards adopt a modified form of the Victorian *Aboriginal Cultural Competence Framework*, including a statement of principles for working with Aboriginal families whose children display PSB/SAB.

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13. The draft Tasmanian Standards reference the applicability of Section 9 of the *Children, Young Persons and their Families Act 1997* in any interaction with an Aboriginal and Torres Strait Islander child and their family.

**Question**

Given the lack of an identifiable Tasmanian cultural competency framework, how should the issue of cultural competence in working with Aboriginal and Torres Strait Islander communities be addressed? Should the draft Tasmanian Standards adopt the Victorian *Aboriginal Cultural Competence Framework*, or a modified form of these?


### 3.2 Definitions of Problem Sexual Behaviour and Sexually Abusive Behaviour

Definitions of Problem Sexual Behaviour and Sexually Abusive Behaviour remain contested within Australian policy, research and practice. The use of appropriate terminology carries significant weight, as labelling children with terms that may shadow them into adulthood, such as ‘perpetrator’ or ‘offender’, is potentially stigmatising and detrimental to the development of their self-identity. The adoption and usage of specific terminology is therefore central to the development of Tasmania’s response to addressing the gap in treatment options for children and young people displaying PSB and SAB.

The Victorian policy and service systems use the following definitions, outlined in the *CEASE Standards of Practice*:

The terms problem sexual behaviour (PSB) in relation to children under 10 years and sexually abusive behaviour (SAB) for children and young people 10 years and less than 17 years are used to clearly distinguish between these age groupings in terms of both their level of development and “criminal” responsibility. In the state of Victoria children from the age of 10 years are deemed to be criminally responsible for sexual offences.

The legislation underpinning Therapeutic Treatment Orders (TTO) in Victoria refers to the sexually abusive behaviour of children and young people 10 years and less than 15 years. The terms are therefore not intended to indicate subjective evaluations of the significance of the behaviour but rather to provide a consistent use of language.

Much of the early work in this area defines the PSB of pre pubescent children as occurring in the context of “the absence of consent; involve[ing] the use of threat of force or force; coercion, and [may include] a disparity of age, level of development or size”. This definition has subsequently been accepted as identifying the contextual elements of SAB exhibited by children and adolescents (10 and less than 15 years).

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57 NSW Department of Health (2005), p. 4.
The term problematic sexual behaviour has been broadly adopted to describe behaviour of a sexual nature irrespective of age that is both outside that behaviour accepted as “normal” for their age and level of development and occurs to the detriment of the child’s or young person’s engagement in activities of normal functioning. This may include behaviours such as excessive self stimulation or excessive preoccupation with pornography that isolates them from normal social and/or learning opportunities and does not include the sexual abuse of others.58

The Australian Childhood Foundation (ACF) has engaged with the issue of PSB and SAB on both practice and research levels. ACF prefers the term ‘problem sexual behaviour’ in describing a child’s behaviour that is both sexual and problematic. ACF states that the term ‘sexually abusive behaviour’ is not appropriate for use in relation to children under 10 years of age, as it refers to adults.59 The ACF also promotes the use of the term ‘children who are the target of the sexual behaviour’ rather than ‘child victim of sexual abuse’. It argues that the use of the former term attempts to make clear “that both the child who is the target and the child who exhibits such behaviour are developmentally vulnerable and in need of support”, whilst still not minimising the extent of trauma experienced by the target child.60

Family Planning Queensland has produced a resource for adults supporting children and young people with PSB, called Is this Normal? Understanding Your Child’s Sexual Behaviour.61 This resource favours the term ‘sexually harmful behaviour’ over ‘sexually abusive behaviour’. In the context of a child displaying SAB, it would seem that the term ‘harm’ has less association with qualities associated with adult practices of abuse, importantly differentiating between adult acts of sexual abuse that have legal consequences, and children’s sexual behaviours which may target other children in harmful ways but which may carry no legal consequences.

In contrast to the examples from Victoria and the ACF, NSW government policy and service systems do not use age to distinguish between SAB and PSB, as evidenced in the NSW Department of Health Issues Paper on PSB/SAB:

Problematic sexualised behaviour: The range of sexual behaviours outside developmental norms which may be self-directed or directed towards others, which are likely to have an impact on the child’s functioning or the functioning of others, but which are not coercive.

Sexually abusive behaviour: Any sexual activity or sexual behaviour of one child that is abusive or coercive towards another child.62

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60 Ibid, p. 8.
SASS considers that basing categorisations of behaviour on age risks underplaying and mislabelling abusive behaviour. Sexual abuse carries significant harmful consequences for the recipient regardless of the perpetrator’s age. In resolving a position on the contested issue of nomenclature, SASS has opted to generally use the term ‘children and young people displaying problem sexual behaviour (PSB)’ while identifying, where present, a particular set of behaviours called sexually abusive behaviours (SAB).

In taking this stance SASS has subscribed to the need to initially engage clients displaying SAB through a risk assessment/safety management framework focusing on other affected parties as part of the assessment case planning process.

**Recommendation**

14. That the following terms be used:

- **Problem Sexual Behaviour (PSB)** for behaviour of a sexual nature irrespective of age that is both outside that behaviour accepted as ‘normal’ for their age and level of development and occurs to the detriment of the child’s or young person’s engagement in activities of normal functioning. This may include behaviours such as excessive self-stimulation or excessive preoccupation with pornography that isolates them from normal social and/or learning opportunities and does not include the sexual abuse of others. This term is to be used generally in reference to children and young people up to and including the age of 17;

- **Sexually Abusive Behaviour (SAB)** to describe a sub-set of behaviours displayed by children and young people irrespective of age, which involves any of the following: the absence of consent; the use of threat or threat of force; coercion; and a disparity of age, level of development or size. Policy and service provision responses in Tasmania will take into consideration that young people aged 10 years and older may be subject to legal consequences of such behaviour; and

- **Child who is the target of the sexual behaviour**, to describe the child targeted by another child’s sexually abusive actions.

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**Questions**

1. What definitions should Tasmania adopt for children displaying PSB and/or SAB? Options could include, but are not limited to:

   - **Problem Sexual Behaviour** to describe behaviour in children *under 10 years of age* which is of a sexual nature, outside that accepted as “normal” for their age and level of development, and occurs to the detriment of the child’s or young person’s engagement in activities of normal functioning. This may include behaviours such as excessive self-stimulation or excessive preoccupation with pornography that isolates them from normal social and/or learning opportunities and does not include the sexual abuse of others; OR

   - **Problem Sexual Behaviour** to describe behaviour of a sexual nature *irrespective of age* that is both outside that behaviour accepted as “normal” for their age and level of development and occurs to the detriment of the child’s or young person’s engagement in activities of normal functioning. This may include behaviours such as excessive self-stimulation or excessive preoccupation with pornography that isolates them from normal social and/or learning opportunities and does not include the sexual abuse of others.
and/or learning opportunities and does not include the sexual abuse of others; and
- **Sexually Abusive Behaviour** to describe a sub-set of behaviours displayed by children and adolescents *over 10 and less than 17 years of age* that occurs in the context of any of the following factors: the absence of consent; the use or threat of force; coercion; and a disparity of age, level of development or size; OR
- **Sexually Abusive Behaviour** to describe a sub-set of behaviours displayed by children and young people *up to 17 years of age*, that occurs in the context of any of the following factors: the absence of consent; the use or threat of force; coercion; and a disparity of age, level of development or size.

### 3.3 Program funding for children and young people displaying PSB/SAB

Currently, Tasmanian providers of sexual assault services are contracted to offer treatment programs to children aged up to 12 years of age displaying PSB or SAB, subject to available resources. This leaves a gap in service provision for young people aged 12-17 years who are displaying PSB or SAB, but who have not been found guilty of a sexual offence.

The issue is of significant concern to practitioners. The Sexual Assault Support Service (SASS) receives numerous calls each month from teachers, police officers and child protection workers who are concerned about a child or adolescent who is displaying PSB or SAB. Without access to specialist treatment options, these young people remain at high risk of continuing their offending behaviour, and potentially progressing to adult sexual offending. O’Brien describes hearing, through her research process, numerous stories of children “who were not referred for therapeutic response until their behaviours had escalated to acts of serious sexual harm against others”. This gap in service provision means that numerous young people will become involved with the juvenile justice system for offences that might have been avoided had earlier action been taken.

#### Recommendations

15. The Tasmanian Government commit to ongoing, adequate funding for voluntary treatment programs for children and young people up to 17 years of age who are displaying PSB or SAB, but who:
   - Have not been found guilty of a sexual offence; and
   - Are not subject to a Therapeutic Treatment Order.

16. Treatment programs are to involve working with the child or young person and their family.

17. As part of a comprehensive child protection and sexual assault prevention strategy, the Tasmanian Government support the development and ongoing provision of non-voluntary treatment programs for children and young people displaying SAB and subject to a substantiated child protection notification and ensuing Therapeutic Treatment Order as a result of the behaviour.

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64 Ibid, p. 25.
The role of therapeutic programs, both voluntary and non-voluntary (mandated by a TTO) as part of a Tasmanian framework to address PSB/SAB is outlined within Appendix 4.3: Proposed referral and treatment pathway.

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3.4 Development and funding of young offender treatment programs

As discussed in Section 3.1.2, a comprehensive Tasmanian service response to SAB requires the development of effective tertiary intervention programs that focus on offender rehabilitation and lowered recidivism. The Tasmanian response in this area is severely lacking, with one youth justice forensic psychologist to service the needs of all custodial and community-based clients across the entire state. This has resulted in a long waiting list for young offenders to enter the assessment phase. The Department of Health and Human Services identify this to be an area of critical need, outlining that,

The major gap, and hence potential risk, for Youth Justice clients is for those young people who are either not convicted or who are diverted away from the criminal justice system (that is, through Community Conferences), who do not receive treatment for their behaviour.

Community Conferences are the only diversionary option for young people convicted of a sex offense, and as discussed within Section 3.1.2, they do not provide an appropriate process through which to address offending behaviour and decrease future recidivism.

Victoria and Queensland both provide useful examples of where states have adopted a successful diversionary approach. These are explored below in order to better understand the benefits of tertiary intervention for children/young people convicted of a sexual offence.

A highly successful program utilised as part of Victoria’s youth justice diversionary response is the Victorian Male Adolescent Program for Positive Sexuality (MAPPS). The program facilitates specialised group and individual psychological services for young people, aged 10-21 who have been found guilty of one or more sexual offences. It is offered by the Royal Children’s Hospital Adolescent Forensic Health Service. O’Brien provides a useful summary of the program approach,

For MAPPS clients, the therapeutic model is based on assisting young people to increase their understanding of themselves and others and take responsibility for

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65 Ibid, p. 54.
66 Ibid, p. 54.
their actions and choices. Young people are supported to develop an understanding of the deliberate pattern of their offending, as well as developing victim awareness and empathy. MAPPS encourages young people to take responsibility for choosing a positive lifestyle that does not incorporate offending or abusive relationships.”

An independent evaluation of the program’s effectiveness found the following significantly positive findings:

- “A low-recorded reoffending rate...95 per cent of 138 MAPPS clients over the 4.5 year review period did not commit any further sexual offences (based on Victoria Police Information Bureau of Records and Youth Justice client information systems).
- Client treatment outcomes - young men took increased responsibility for their offending behaviour rather than blame others and acknowledged the extent of their sexually abusive behaviour by admitting to 63 per cent more offences during treatment in MAPPS than had been presented to the court.
- Stakeholders’ views - parents, caregivers, judges, Youth Justice supervisory staff and other professionals indicated that MAPPS was performing at a very high level in all its functions of offender treatment, family support, secondary consultation, training and public education.”

One particular limitation of the program that is however worth raising is that it is not open to young women. Whilst sexual assault statistics indicate that men are predominately the perpetrators of sexual offences, a small percentage of perpetrators are female. Supporting this, an audit of SASS client files who presented with PSB indicates a number of young females who were engaged in sexually coercive behaviours with other vulnerable children. Whether or not these coercive behaviours developed into SAB at an older age is unknown. However, it is worth considering whether a young offenders treatment program needs to have the capacity to work with young female sex offenders. As an example of this, Sex Offender treatment programs in the United States provide programs for both adult and juvenile females.

In Queensland, the Department of Communities provides a “range of ecosystemic treatment approaches individually tailored to the individual needs of the young person and their family.” Whilst they differ in form, diversionary programs across the state generally feature the following elements:

- An individualised therapeutic approach tailored to the needs of the young person;

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• Consideration of the ‘unique social ecology’ of the young person, including their community, school, family and peers;
• Involvement of the young person’s family as a requirement of treatment; and
• Within some programs, a required commitment to counselling for 6 months – 2 years.

Notably, the state-wide program delivered by the Griffith Youth Forensic Service (GYFS) employs ‘field-based practice’ where clients are assessed and provided with specialist treatment services within their own community. GYFS also utilises a collaborative approach that strives “to build community capacity that will outlast the service that GYFS can provide.”72 Program workers consult with the young person to identify key people to engage as part of their ongoing support network, in recognition that “whilst clinicians offer specialist psychological expertise in responding to sexual offending behaviours, they are not the only component required to support the young person.”73

Best practice in working with young people convicted of a sex offence is now understood to constitute a focus on ecological work and the involvement of the family, as opposed to an approach characterised by isolated individual therapy.74 An ecological approach involves a “sensitive and integrated understanding of a child’s context, with attention to their family life and their socio-economic circumstances, their peer group, the young person’s physical, emotional and intellectual wellbeing, and the wellbeing of those around them.”75 Systemic challenges within youth justice services continue however to limit the application of this approach. Professor Smallbone explains the tension within the sector,

Programs for youth sexual offenders were originally modelled on those developed for adult sexual offenders, and many youth programs in Australia (and elsewhere) continue to operate according to this adult model. Many programs still provide highly prescriptive group-based psychotherapies that more or less exclusively target individual level-factors.76

Any development of a Tasmanian youth offenders program must be evidence based, and consider the need for therapeutic interventions that involve the offender’s family and focus on the multiple contexts in which children and adolescents live.

Recommendations
18. The development of the Tasmanian sexual assault prevention and support sector should include the creation of a young offender treatment program. This program would operate as a tertiary intervention strategy that functions within a comprehensive system of secondary and tertiary prevention programs.

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73 Ibid.
74 Ibid, p. 55.
19. The young offender treatment program would be open to both young men and young women, although we note that practice understandings in the area of treatment programs for young women is under-researched.

20. The young offender treatment program would be open to young people up to and including 18 years of age.

21. The young offender treatment program would draw on the burgeoning evidence base of best practice from Australia and overseas.

**Questions**

x) Would a young offender treatment program be more appropriately based within a state-funded specialist service, or within a government department such as human services, child protection or corrective services? For example, could a program be designed and run by a sexual assault service and implemented in institutional and community-based settings across the state for custodial and community-based youth justice clients?

y) Should a Tasmanian young offenders program be developed in a way to include young female offenders?

### 3.5 Out of Home Care system

A number of children displaying PSB/SAB have some form of contact with the out of home care (OOHC) system. Evidence indicates that the Tasmanian OOHC system has thus far not taken a strategic or comprehensive approach to supporting or managing these children. Children and young people displaying PSB/SAB are often moved through numerous different placements once their behaviour cannot be managed by their current carer, or is deemed to be putting other children at risk. In some situations the next carer is not fully informed about the child’s behaviour, let alone how to manage it for the wellbeing of the child and the safety of other children within the placement. This perpetuates a cycle where traumatised children who display PSB or SAB are moved to a different placement where carers are ill-equipped to manage them, the child then re-displays the behaviour, and is then moved on again.

In redressing these gaps, child protection systems must design and implement a strategic risk and behavioural management strategy throughout the entire continuum of involvement within the child protection system: including the grounds for notifications; substantiation of notification; decision-making regarding care and protection; removal from family; and placement options and management.

Specific strategies will also need to be adopted depending on the type of placement. An effective OOHC support system for foster care placements would involve:

- Careful placement selection and ongoing management to ensure that other children within the foster home are not placed at risk;
- Careful carer selection to ensure that children displaying PSB/SAB are matched with carers who have the appropriate skills, knowledge and attitude to support children to manage and gain control over their behaviours. Specifically, carers must have the knowledge and skills to:
  - Identify a child displaying PSB/SAB;
• Appropriately respond to the behaviour, including safety planning for other children at risk, and the child displaying the behaviour; and
• Support the longer-term healing and correction of the child’s behaviour.

Children displaying PSB/SAB frequently end up in residential care placements, as they are often deemed unsuitable for foster care homes. Whilst the safety of other children within foster care placements must be a priority, it is also possible to effectively manage a child’s PSB/SAB within a foster care environment for the safety both of themselves and any other children within the home. Unless a child’s behaviour directly places others at risk, there is therefore no need for a child’s behaviour to preclude them from any form of child and family support that could support their healthy development.

The Tasmanian Government recently recognised in its briefing paper on Out of Home Care Reform, that residential care staffing is often inadequate to cope with the high needs of the children placed within residential units. It states,

Staffing of some residential care arrangements is characterised by staff that do not have specialist professional training or accreditation (which is currently unavailable), inadequate supervision and limited access to training. This has resulted in situations where the only service provided to the most chaotic and vulnerable children, is adult monitoring rather than specific care intervention.77

Recognising that a number of children displaying SAB are placed in residential care, and that residential carers often do not have access to training on the provision of care for children displaying SAB, the Child Protection Society (CPS) recently piloted a joint initiative with three agencies that all provide residential care to cohorts of children displaying SAB. CPS employs a Therapeutic Adviser who provides support and consultation to residential carers to “develop their knowledge and skills in looking after young people who have caused sexual harm.”78 This role has several elements:

• “Provide regular on-site consultation to residential care staff and case managers regarding provision of an environment that promotes safety and minimizes the risk of engagement in sexually abusive behaviours.
• Regular liaison with therapeutic treatment providers working with individual young people placed in residential units, to ensure management plans are consistent with the therapeutic needs of each young person.
• Attendance at care team meetings as appropriate, but not in lieu of the young person’s treatment provider.” 79

In addition to the Therapeutic Adviser position, CPS also provides the following elements:

- “Provision of consultation and support to the Placement Coordination Unit and the Out of Home Care agencies in relation to placement planning and matching...and assisting in the development of safety plans.
- A one day training package was offered for all residential care staff across the region, to be repeated four times per year to address staff turnover.
- Additional training packages were to be offered to the three residential care agencies as needs were identified.”

This project, the first of its kind in Victoria, has to date “demonstrated very positive outcomes for the care and support of these young people.” This example demonstrates a comprehensive, strategic approach to managing the provision of care for children and young people with PSB/SAB who are placed within residential care. It would be prudent to consider the application of such an approach within the Tasmanian context.

Kinship carers are a further group who require targeted support in caring for children displaying PSB/SAB, and specific placement strategies. Kinship carers may experience particular challenges “given the complexity of caring for children and young people who have been sexually abusive or engaging in problematic sexual behaviours with young members of their own extended family and all of the complex family dynamics this is likely to invoke.” Within the Tasmanian child protection system there is however no standardised approach to kinship carer training or placement management where a child has displayed PSB/SAB.

**Recommendations**

22. Child protection services implement a comprehensive strategy towards the provision of care to children and young people displaying PSB/SAB that includes:

- Appropriate placement choices so that children displaying PSB/SAB are matched with carers with the appropriate skills and temperaments, and with households where other children will not be put at risk;
- Full disclosure to carers of all details of the child’s past and current behaviour, and any past trauma that may be contributing to the behaviour, prior to the child commencing the placement;
- The provision of comprehensive and targeted training in identifying, responding to and providing care to children displaying PSB/SAB for all carers;
- In addition to the above, kinship carers receive particular training on managing PSB/SAB within a family environment and context.
- Every case to have a comprehensive case plan detailing how the child’s PSB/SAB will be addressed and managed. These are to be developed collaboratively by Child Protection Services, the child’s carer/s and the relevant support providers who will be providing the therapeutic programs; and

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80 Ibid, p. 18.
• Where assessed as potentially beneficial for the child, children displaying PSB or SAB to receive early intervention in the form of therapeutic care with a provider trained in working with children and young people displaying PSB/SAB.

**Questions**

z) How should the Tasmanian child protection system ensure that the OOHC system is appropriately equipped to care for children with PSB/SAB, including:

- Carer training and preparation prior to receiving children (including the disclosure of all relevant information from CPS to the carer/s) that is particularly targeted towards the type of care they provide (residential, foster, kinship, etc.);
- Appropriate placement matching, safety management plans and ongoing case management; and
- Provision of appropriate therapeutic support to the child/young person?

aa) Should Tasmania create a ‘Therapeutic Adviser’ position to provide ongoing support and consultation to residential carers and agencies working with children displaying PSB/SAB?

bb) If so, which organisation or agency would this position be most appropriately located within?

### 3.6 Practitioner regulation

#### 3.6.1 Approved Standards of Practice

SASS has identified the CEASE *Standards of Practice for Problem Sexual Behaviours and Sexual Abusive Behaviour Treatment Programs* as best practice in outlining the requirements for services to ensure equity of access and quality of care. SASS has adapted these Standards to create a modified form for the Tasmanian context; the *Tasmanian Standards of Practice for Problem Sexual Behaviour and Sexually Abusive Behaviour: Intervention and Treatment Programs*. These Standards have been adopted within SASS and are offered to Government and other agencies and services for their consideration as possible state-wide standards.

**Recommendation**

23. The *Pathways to Change Standards of Practice for Problem Sexual Behaviours and Sexually Abusive Behaviours* and complementary practitioner resources be recognised and formally adopted by the Tasmanian Government.

**Question**

cc) What role should the *Pathways to Change Standards of Practice for Problem Sexual Behaviours and Sexually Abusive Behaviours* and complementary practitioner resources play within a Tasmanian response to PSB/SAB?
3.6.2 Practitioner training and accreditation

The provision of therapeutic treatment to children displaying PSB, and particularly SAB, is a highly specialised area of practice. Practitioners must possess particular knowledge and skills above and beyond generalist counselling approaches. A Tasmanian response to treating PSB and SAB therefore requires the identification of appropriate practitioner standards, and the specific training required to become and remain appropriately professionally equipped.

Significant barriers exist in accessing professional development in Tasmania, with most professional development opportunities occur on mainland Australia. The development of a comprehensive Tasmanian service response to PSB and SAB needs to include the creation of state-based training opportunities specific to this work.

The Victorian CEASE Standards outline education, training and practitioner requirements, including that practitioners must annually complete a specified amount of professional development on working with children displaying PSB or SAB, and their families. The Standards also state that CEASE is working towards the development of a Graduate Diploma for workers in the fields of sexually abusive behaviours, PSB, sexual assault and family violence.83

NSW practitioners working with children and young people displaying SAB are required to be accredited under the NSW Child Sex Offender Counsellor Accreditation Scheme (CSOCAS).84 To be accredited, practitioners must have certain qualifications, successfully undergo a ‘good character check’, and abide by the ANZATSA Codes of Conduct and Ethics. The scheme offers three levels of accreditation; supervisor, associate and clinical, and two types of accreditation; working with adult offenders or working with children displaying SAB.

Accredited counsellors are provided with annual professional development workshops. These workshops are designed to keep counsellors abreast of current research findings and techniques to improve their work with clients, including children, who sexually offend against children. The NSW example showcases a specific training response to a specialised practice area. It clearly sets out standards and qualifications, and requires practitioners to demonstrate their capacities in relation to these through an accreditation process. It also enables the public to clearly identify appropriately trained practitioners.

Recommendation

24. That the Tasmanian Government commission the development of an appropriate system of accreditation and ongoing professional development for practitioners working with children displaying PSB/SAB.

83 It is not clear what stage the development of this Graduate Diploma is currently at.
In order to ensure practitioner standards and the availability of basic training in relation to PSB/SAB therapeutic work, should Tasmania:

- Rely on interstate training opportunities;
- Develop a state-based accreditation system, with associated professional development, such as in NSW; or
- Develop a graduate diploma, as per Victoria’s approach?

3.6.3 Practitioner supervision

The CEASE Standards of Practice state that a minimum standard for practitioners in the field of PSB and SAB is a fortnightly supervision session with a supervisor experienced in the field. One issue for Tasmanian practitioners working within the fields of sexual assault and family violence is accessing appropriate supervisors who have relevant practice knowledge and supervision. The provision of appropriate supervision options therefore needs to be considered throughout the development of a Tasmanian service response to PSB and SAB.

Whilst sexual assault services across Australia generally utilise their own combination of supervision approaches, minimum standards for supervision across the sexual assault field include a combination of informal debriefing, peer, clinical and line-management supervision.\(^{85}\)

The NSW CSOCAS requires accredited counsellors to receive regular supervision with an accredited supervisor, thus ensuring that supervision is specific to their work with offenders. This pool of accredited supervisors also overcomes the issue of practitioners being unable to locate external supervisors who have appropriate experience. In Victoria, SECASA has a Clinical Supervisor Service for practitioners working within the fields of sexual assault and family violence.

Recommendations

25. Standards for supervision within the sexual assault field are developed and upheld by services working with SAB and PSB clientele in Tasmania.

The issue of practitioner’s accessing appropriate supervisors for SAB and PSB related work could be addressed by:

- The creation of a pool of accredited supervisors; or
- The creation of a supervision centre for practitioners across the field of sexual assault and family violence.

Which option would be the most feasible within the Tasmanian context?

Are there other feasible supervision options?

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Reference list


Children, Youth and Families Act 2005 (Vic)


Appendix 4.1: Summary of recommendations

1. The future goal of the development of a comprehensive service system response to PSB and SAB be recognised and supported by the Tasmanian Government as part of its commitment to developing secondary and tertiary prevention strategies for sexual assault.

2. The Tasmanian Government commits to the implementation of Strategy 6.2 of the National Framework for Protecting Australia’s Children which explicitly recognises the need to address PSB and SAB and outlines a strategic framework for how the state will tackle the issue through policies, research and funded programs.

3. The Tasmanian Government commits to the implementation under the National Plan to Reduce Violence Against Women and their Children of the provisions of the Primary Prevention Strategy to Reduce Family Violence and Sexual Assault in Tasmania (2012 – 2015) which explicitly recognises the need to address PSB and SAB, and outlines a strategic framework for how the state will tackle the issue through policies and funded programs.

4. Any future development of the Tasmanian child protection system considers the need to acknowledge and systematically respond to the issue of problem sexual behaviour and sexually abusive behaviour in children.

5. The Tasmanian Children, Young Persons and their Families Act 1997 be amended to state that children and young people up to 18 years of age displaying PSB/SAB require a child protection intervention, whether or not they are themselves at risk of neglect or abuse; and

6. That under the Act, a child protection intervention in these cases focus on both the safety management of other vulnerable children and the provision of rehabilitative treatment (including a mandated intervention) to the child that poses a risk to others.

7. The Children’s and/or Youth Justice Divisions of the Magistrates Court be granted power to order a young person up to 17 years of age, and their family, to undergo therapeutic counselling for sexually abusive behaviours.

8. The Children, Young Persons and their Families Act 1997 be amended to consider the effects of cumulative harm, rather than just episodic interventions.

9. Amendments be made to the Youth Justice Act 1995 to:
   a. Enable the Magistrate’s Court (Children’s Division) to refer children and young people (aged between 10-17 inclusive) convicted of a sexual offence to
an individual assessment, and then based on this, to an appropriate therapeutic treatment program;

b. Enable the Court to stand down criminal matters when a child or young person (aged between 10-17 inclusive) is made subject to a Therapeutic Treatment Order (assuming that the Child, Youth and Families Act 1997 is amended to adopt this approach); and

c. To dismiss charges where a child or young person (aged 10-17 inclusive) successfully completes a treatment program.

10. The development of a Tasmanian service delivery model for children/young people with PSB or SAB must take into account the specific needs of children/young people with an intellectual disability, including the development of specialised programs, resources, education and monitoring, as well as appropriate practitioner training.

11. The relevant Articles from the United Nations Convention for the Rights of the Child be included within the Tasmanian Standards of Practice for Problem Sexual Behaviour and Sexually Abusive Behaviour: Intervention and Treatment Programs.

12. The draft Tasmanian Standards adopt a modified form of the Victorian Aboriginal Cultural Competence Framework, including a statement of principles for working with Aboriginal families whose children display PSB/SAB.

13. The draft Tasmanian Standards reference the applicability of Section 9 of the Children, Young Persons and their Families Act 1997 in any interaction with an Aboriginal and Torres Strait Islander child and their family.

14. That the following terms be used:

a. Problem Sexual Behaviour (PSB) for behaviour of a sexual nature irrespective of age that is both outside that behaviour accepted as ‘normal’ for their age and level of development and occurs to the detriment of the child’s or young person’s engagement in activities of normal functioning. This may include behaviours such as excessive self-stimulation or excessive preoccupation with pornography that isolates them from normal social and/or learning opportunities and does not include the sexual abuse of others. This term is to be used generally in reference to children and young people up to and including the age of 17;

b. Sexually Abusive Behaviour (SAB) to describe a sub-set of behaviours displayed by children and young people irrespective of age, which involves any of the following: the absence of consent; the use of threat or threat of force; coercion; and a disparity of age, level of development or size. Policy and service provision responses in Tasmania will take into consideration that young people aged 10 years and older may be subject to legal consequences of such behaviour; and

c. Child who is the target of the sexual behaviour, to describe the child targeted by another child’s sexually abusive actions.
15. The Tasmanian Government commit to ongoing, adequate funding for voluntary treatment programs for children and young people up to 17 years of age who are displaying PSB or SAB, but who:
   a. Have not been found guilty of a sexual offence; and
   b. Are not subject to a Therapeutic Treatment Order.

16. Treatment programs are to involve working with the child or young person and their family.

17. As part of a comprehensive child protection and sexual assault prevention strategy, the Tasmanian Government support the development and ongoing provision of non-voluntary treatment programs for children and young people displaying SAB and subject to a substantiated child protection notification and ensuing Therapeutic Treatment Order as a result of the behaviour.

18. The development of the Tasmanian sexual assault prevention and support sector should include the creation of a young offender treatment program. This program would operate as a tertiary intervention strategy that functions within a comprehensive system of secondary and tertiary prevention programs.

19. The young offender treatment program would be open to both young men and young women, although we note that practice understandings in the area of treatment programs for young women is under-researched.

20. The young offender treatment program would be open to young people up to and including 18 years of age.

21. The young offender treatment program would draw on the burgeoning evidence base of best practice from Australia and overseas.

22. Child Protection Services implement a comprehensive strategy towards the provision of care to children and young people displaying PSB/SAB that includes:
   a. Appropriate placement choices so that children displaying PSB/SAB are matched with carers with the appropriate skills and temperaments, and with households where other children will not be put at risk;
   b. Full disclosure to carers of all details of the child’s past and current behaviour, and any past trauma that may be contributing to the behaviour, prior to the child commencing the placement;
   c. The provision of comprehensive and targeted training in identifying, responding to and providing care to children displaying PSB/SAB for all carers;
   d. In addition to the above, kinship carers receive particular training on managing PSB/SAB within a family environment and context.
   e. Every case to have a comprehensive case plan detailing how the child’s PSB/SAB will be addressed and managed. These are to be developed collaboratively by child protection services, the child’s carer/s and the
relevant support providers who will be providing the therapeutic programs; and
f. Where assessed as potentially beneficial for the child, children displaying PSB or SAB to receive early intervention in the form of therapeutic care with a provider trained in working with children and young people displaying PSB/SAB.

23. The Pathways to Change Standards of Practice for Problem Sexual Behaviours and Sexually Abusive Behaviours and complementary practitioner resources be recognised and formally adopted by the Tasmanian Government.

24. That the Tasmanian Government commission the development of an appropriate system of accreditation and ongoing professional development for practitioners working with children displaying PSB/SAB.

25. Standards for supervision within the sexual assault field are developed and upheld by services working with SAB and PSB clientele in Tasmania.
Appendix 4.2: Stakeholder feedback template

Please record your response in the template provided:

By email (preferred): admin@sass.org.au OR By mail:
Policy Officer
Sexual Assault Support Service (SASS)
PO Box 217
North Hobart Tasmania 7002

Submissions must be emailed or mailed to SASS by 30\textsuperscript{th} of January 2015.

First name: .......................................................... Surname: ..............................................................

\textit{Additionally, if submitting on behalf of an organisation:}

Name of organisation: .........................................................................................................................

Position in organisation: .....................................................................................................................

Phone: ...............................................................................................................................................

Email address: ....................................................................................................................................

Address: ...............................................................................................................................................\n
Suburb/City: .............................................. State: ..................... Postcode: .........................

Please note:
This is a public consultation process and all submissions may be utilised as part of the final report. This report will be made publicly available. Where submissions are received from individuals all personal details will be removed.

\textit{Please indicate if your submission:}

\begin{itemize}
  \item [\square] Does \textbf{NOT} contain ‘in confidence’ material and therefore does not need to be considered confidentially within the final report.
  \item [\square] Contains \textbf{SOME} material supplied ‘in confidence’ and therefore needs to be considered confidentially within the final report.
\end{itemize}

The Final Report will be available from the SASS website on release at:

\url{www.sass.org.au}
SASS invites responses to any or all of the following questions.

1. **Relevant legislative frameworks and policies: National and State Frameworks**
   a) How should Tasmania address the issue of PSB/SAB within the second phase of the *Tasmanian Implementation Plan* of the *National Plan to Reduce Violence against Women and their Children*?
   b) How should Tasmania address the issue of PSB/SAB within the response to the *National Framework for Protecting Australia’s Children 2009–2020*?

2. **Relevant legislative frameworks and policies: Legislative and Policy Framework**
   **2.1. Children, Young Persons and their Families Act 1997**
   c) Should the Tasmanian *Children, Young Persons and their Families Act 1997* be amended in line with Victorian legislation, to enable interventions where children and young people are displaying SAB, but are not necessarily themselves at risk of neglect or abuse?
   d) What age range should this pertain to?
   e) Should this amendment focus both on safety management for other vulnerable children and the provision of rehabilitative treatment to the child displaying the behaviour?

   **2.2. Therapeutic Treatment Orders**
   f) Would a Therapeutic Treatment Order (TTO) system be an effective youth justice diversion and sexual assault prevention strategy for Tasmania?
   g) What ages should the TTO system target?
   h) Considering the challenge of parental/carer non-engagement, could a TTO system for children under 10 years be devised? Are there other options to support the capacity of these children and their families to access counselling?

   **2.3. Cumulative harm**
   i) How should the concept of cumulative harm be considered within the Tasmanian context?
   j) Should the *Children, Young Persons and their Families Act 1997* be amended to expressly consider and respond to the effect of cumulative patterns of harm on a child’s safety and development?

   **2.4. Youth Justice Act 1997**
   k) What types of effective youth justice diversion processes would be appropriate within the Tasmanian context?
   l) Should the *Youth Justice Act 1995* be amended to enable the Magistrate’s Court (Children’s Division) to refer children and young people (aged between 10-17 inclusive) convicted of a sexual offence to an individual assessment, and then based on this, to an appropriate therapeutic treatment program?
   m) Should criminal matters be stood down when a child or young person (aged between 10-17 inclusive) is made subject to a Therapeutic Treatment Order?
   n) Should charges be dismissed where a child or young person (aged between 10-17 inclusive) successfully completes a treatment program?
2.5. Disability Services Act 2011

o) Should the Disabilities Services Act 2011 and the relevant policy/service delivery framework be reviewed to facilitate the capacity to work with a potential cohort of children/young people displaying PSB or SAB who also have intellectual disabilities?

2.6. International law and the Rights of the Child

p) Are there other relevant Articles from the United Nations Convention on the Rights of the Child that should guide the development of a state response to PSB/SAB?

q) Are there other applicable international conventions or principles that should be referenced and incorporated?

2.7. Working with Aboriginal and Torres Strait Islander children and their families

r) How should the issue of cultural competence in working with Aboriginal and Torres Strait Islander children and young people be addressed, given the given the lack of an identifiable Tasmanian cultural competency framework? Should the draft Tasmanian Standards adopt the Victorian Aboriginal Cultural Competence Framework, or a modified form of these?


3. Definitions of Problem Sexual Behaviour and Sexually Abusive Behaviour

s) What definitions should Tasmania adopt for children displaying PSB and/or SAB? Options could include, but are not limited to:

- **Problem Sexual Behaviour** to describe behaviour in children under 10 years of age which is of a sexual nature, outside that accepted as “normal” for their age and level of development, and occurs to the detriment of the child’s or young person’s engagement in activities of normal functioning. This may include behaviours such as excessive self stimulation or excessive preoccupation with pornography that isolates them from normal social and/or learning opportunities and does not include the sexual abuse of others; OR

- **Problem Sexual Behaviour** to describe behaviour of a sexual nature irrespective of age that is both outside that behaviour accepted as “normal” for their age and level of development and occurs to the detriment of the child’s or young person’s engagement in activities of normal functioning. This may include behaviours such as excessive self stimulation or excessive preoccupation with pornography that isolates them from normal social and/or learning opportunities and does not include the sexual abuse of others; and

- **Sexually Abusive Behaviour** to describe a sub-set of behaviours displayed by children and adolescents over 10 and less than 17 years of age that occurs in the context of any of the following factors: the absence of consent; the use or threat of force; coercion; and a disparity of age, level of development or size; OR

- **Sexually Abusive Behaviour** to describe a sub-set of behaviours displayed by children and young people up to 17 years of age, that
occurs in the context of any of the following factors: the absence of consent; the use or threat of force; coercion; and a disparity of age, level of development or size.

4. **Program funding for children and young people displaying PSB/SAB**
   - t) Should the State Government fund voluntary treatment programs for children up to 17 years of age who are displaying PSB or SAB?
   - u) What should be the eligibility criteria for such programs?
   - v) Which current Tasmanian services could be the potential providers of PSB/SAB treatment programs, both voluntary and non-voluntary?
   - w) How could a Tasmanian service system of PSB/SAB treatment programs be designed to effectively cater to Tasmania’s geographically dispersed population?

5. **Development and funding of young offender treatment programs**
   - x) Would a young offender treatment program be more appropriately based within a state-funded specialist service, or within a government department such as human services, child protection or corrective services? For example, could a program be designed and run by a sexual assault service and implemented in institutional and community-based settings across the state for custodial and community-based youth justice clients?
   - y) Should a Tasmanian young offenders program be developed in a way to include young female offenders?

6. **Out of Home Care System**
   - z) How should the Tasmanian child protection system ensure that the OOHCC system is appropriately equipped to care for children with PSB/SAB, including:
     - O Carer training and preparation prior to receiving children (including the disclosure of all relevant information from CPS to the carer/s) that is particularly targeted towards the type of care they provide (residential, foster, kinship, etc.);
     - O Appropriate placement matching, safety management plans and ongoing case management; and
     - O Provision of appropriate therapeutic support to the child/young person?
   - aa) Should Tasmania create a ‘Therapeutic Adviser’ position to provide ongoing support and consultation to residential carers and agencies working with children displaying PSB/SAB?
   - bb) If so, which organisation or agency would this position be most appropriately located within?

7. **Practitioner regulation**
   7.1. **Approved Standards of Practice**
   - cc) What role should the Pathways to Change Standards of Practice for Problem Sexual Behaviours and Sexually Abusive Behaviours and complementary practitioner resources play within a Tasmanian response to PSB/SAB?

   7.2. **Practitioner training and accreditation**
dd) In order to ensure practitioner standards and the availability of basic training in relation to therapeutic work with PSB and SAB, should Tasmania:
   - Rely on interstate training opportunities;
   - Develop a state-based accreditation system, with associated professional development, such as in NSW; or
   - Develop a graduate diploma, as per Victoria’s approach?

7.3. Practitioner supervision
ee) The issue of practitioner’s accessing appropriate supervisors for SAB and PSB related work could be addressed by:
   - The creation of a pool of accredited supervisors; or
   - The creation of a supervision centre for practitioners across the field of sexual assault and family violence.

Which option would be the most feasible within the Tasmanian context?

ff) Are there other feasible supervision options?
Appendix 4.3: Proposed referral and treatment pathways

Proposed referral and treatment pathways for children and adolescents displaying problem sexual behaviour or sexually abusive behaviour

- **Children/young people up to & including 17 years of age (not subject to a Therapeutic Treatment Order or criminal justice) proceeding**
  - Referral (by self, family member, psychologist/counsellor, etc.)
  - Voluntary treatment program

- **Children/young people up to & including 17 years of age subject of notification to Child Protection for sexually abusive behaviour (but where criminal charge is not being pursued)**
  - Referral to Therapeutic Treatment Board
  - Referral to Children’s Division of Magistrate’s Court
  - Non-voluntary therapeutic treatment program

- **Child or youth aged between 10-17 (inclusive) found guilty of a sexual offence**
  - Referral (by Children’s Division of Magistrate’s Court)
  - Range of diversionary options, for example: a young offenders treatment program